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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,502	07/08/2003	Charles Bradley Green	25040.0912	9230

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SUTHERLAND ASBILL & BRENNAN LLP
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ATLANTA, GA 30309

EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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1761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/615,502

Applicant(s)

GREEN, CHARLES BRADLEY

Examiner

Reginald L. Alexander

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 25 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) 31-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-14 and 19-25 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 18 is objected to because of the following informalities: the recitation in claim 18 of "a plurality of orifice area" appears to be grammatically incorrect.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-6, 9, 10, 12-14, 19-21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 4445436 in view of Mahlich.

There is disclosed in the German reference a milk foaming device, comprising: a milk inlet system, including a disposable hose 14, for pressurizing milk from a milk source; an air inlet system, including a disposable hose 16; compressed air source (pump) and valve arrangement 119, 120, for pressurizing air from the air source; a steam inlet system, including a disposable hose 9; a mixing area 11 to mix the milk, air and steam, wherein the mixing area is downstream of the milk inlet system; an expansion area 3; a hose connector (connected to the expansion area) for connecting the milk and air inlet systems, the connector including a three-way connection; and a diffuser 5, including an insert and spout, to gather the flow of foamed milk to be dispensed.

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Mahlich discloses that it is known in the art to provide a mixture nozzle within a hollow nozzle block, the nozzle having an outwardly tapered end portion (see figure 3).

It would have been obvious to one skilled in the art to provide within the mixing area of DE 4445436 a mixing nozzle arrangement as taught in Mahlich, in order to more thoroughly mix the air, steam and milk.

Claims 2, 3 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims above, and further in view of Hourizadeh.

Hourizadeh discloses that it is known in the art to use a pump 140 to pressurize a supply milk to a foaming device and provide a sanitation system 50, 95 to provide hot water to the foaming device.

It would have been obvious to one skilled in the art to provide the device of DE 445436, as modified by Mahlich, with the sanitation system taught in Hourizadeh, for the purpose of cleaning the foaming device.

In regards to the use of a peristaltic pump, it is the opinion of the examiner that the pump disclosed in Hourizadeh is a functional equivalent to that claimed, and would perform equally as well.

Claim 11 rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 1, 5 and 10 above, and further in view of Detsch.

Detsch discloses that it is known in the art to use a micro-filter in the path of an air hose providing compressed air.

It would have been obvious to one skilled in the art to provide the device of DE 4445436, as modified by Mahlich, with the micro-filter taught in Detsch, in order to clean the air being provided to the mixing area.

Allowable Subject Matter

Claims 7, 8, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

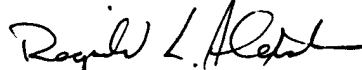
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rla
09 February 2007


Reginald L. Alexander
Primary Examiner
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